

REMARKS

Claims 1-20 have been examined on their merits.

Applicants herein amend claims 1, 7, 15 and 20 to recite that at least one set of said transaction rules is established by a respective combination of supplier and buyer prior to the buyer's selection of a product supplied by a plurality of suppliers. Support for the amendment to claims 1, 7, 15 and 20 can be found in the originally filed specification. Entry and consideration of the amendment to claims 1, 7, 15 and 20 is respectfully requested.

Claims 1-20 are all the claims presently pending in the application.

1. Claims 1-20 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Conklin *et al.* Applicants traverse the rejection of claims 1-20 for at least the reasons discussed below.

To support a conclusion that a claimed invention lacks novelty under 35 U.S.C. § 102, a single source must teach all of the elements of a claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). A single source must disclose all of the claimed elements arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). A proper anticipation rejection requires that every element of the claim be found "in a single prior art reference." *See In re Robertston*, 169 F.3d

743, 745, 49 U.S.P.Q.2d 1949, 1950 (Fed. Cir. 1999). For anticipation to exist, there must be no difference between the claimed invention and the reference disclosure, as that reference would be understood by one of ordinary skill in the art. *See Scripps Clinic & Research Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991); *see also*, *Crown Operations Intn'l, Ltd. v. Solutia, Inc.*, 289 F.3d 1367, 62 U.S.P.Q.2d 1917 (Fed. Cir. 2002). Further, "an anticipating reference must describe the [claimed] subject matter with sufficient clarity and detail to establish that the subject matter existed and that its existence was recognized by persons of ordinary skill in the field of the invention." *ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 545, 48 U.S.P.Q.2d 1321, 1328 (Fed. Cir. 1998) (citing *In re Spada*, 911 F.2d 705, 708, 15 U.S.P.Q.2d 1655, 1657 (Fed. Cir. 1990)). Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus, the cited reference must clearly and unequivocally disclose every element and limitation of the claimed invention.

Conklin *et al.* fail to teach or suggest at least non-public data comprising at least one set of transaction rules for a combination of supplier and buyer, wherein the transaction rules are agreed to by the combination of supplier and buyer prior to the buyer's selection of a product, as recited in claim 1. Instead, at col. 20, lines 5-24, Conklin *et al.* disclose the following actions for a supplier of a product and a potential purchaser of the product:

Turning now to FIG. 1k participant functions 214 are outlined. In a commerce community, the participants might be grouped as sellers 08grpa and buyers 08grpb. Seller participant 08grpa functions include automatically integrated remote Web authoring 214-02 and processing and administration 214-04. In remote Web authoring 214-02, the present invention allows a seller registering with the sponsored community,

to automatically create a seller's Website within the community, on completion of registration. The seller selects from several Website format templates provided by the present invention and as the seller "fills in the blanks" in a selected template, the information is automatically integrated with the rest of the system, so that orders can be processed and accepted immediately and more efficient registration with search engines is automatically initiated. A seller's processing and administrative steps 214-04 includes such tasks as uploading product catalogs, customizing the Website from time to time, and similar processing.

Still in FIG. 1k, participant functions for buyer participants 08grpb could be as simple as proposals 214-10. A buyer might either propose negotiations of order terms based on a seller's catalog and price lists or send out a request for proposal (RFP) to all or some of the seller's in the community, or send out a request for a quote (RFQ) to all or some of the sellers in a community, asking sellers to respond with the best, most comprehensive terms each seller can offer. The present invention also provides prospective buyers with the ability to make e-mail inquiries through the system, which are logged by the system.

With respect to a seller, Conklin *et al.* clearly disclose that its apparatus creates a website within the commerce community for the seller's products, but there is no teaching or suggestion that, prior to a potential buyer selecting a product, a set of transaction rules for the product purchase has been agreed to and stored as non-public data. Moreover, Conklin *et al.* disclose that the buyer initiates negotiations or sends out a request for proposal or quote to receive terms on a selected product. In contrast, in the claimed invention, the buyer's selection of a product triggers the generation of a cost estimate, based on the earlier agreed-to transaction rules, that is sent to the buyer. There is no need for the buyer to request terms from suppliers, for example, by sending out a request for proposal or a request for quote. In sum, Conklin *et al.* fail to teach or suggest at least this feature of the claimed invention.

Based on the foregoing reasons, Applicants submit that Conklin *et al.* fail to teach or suggest all of the claimed elements as arranged in claim 1. Therefore, under *Hybritech* and

Richardson, Conklin *et al.* clearly cannot anticipate the present invention as recited in independent claim 1. Thus, Applicants submit that claim 1 allowable, and further submit that claims 2-6, 16 and 17 are allowable as well, at least by virtue of their dependency from claim 1. Applicants respectfully request that the Patent Office withdraw the § 102(e) rejection of claims 1-6, 16 and 17.

With respect to independent claim 7, Applicants submit that claim 7 is allowable for at least reasons analogous to those discussed above with respect to claim 1, in that Conklin *et al.* fail to teach or suggest at least that the selection of a product triggers the generation of a cost estimate based on the earlier agreed-to transaction rules. Therefore, under *Hybritech* and *Richardson*, Applicants submit that claim 7 is allowable, and further submit that claims 8, 9, 11-14, 18 and 19 are allowable as well, at least by virtue of their dependency from claim 7. Applicants respectfully request that the Patent Office withdraw the § 102(e) rejection of claims 7-9, 11-14, 18 and 19.

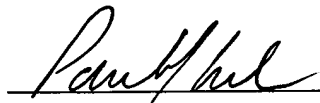
With respect to independent claims 15 and 20, Applicants submit that claims 15 and 20 are allowable for at least reasons analogous to those discussed above with respect to claim 1, in that Conklin *et al.* fail to teach or suggest at least that the selection of a product triggers the generation of a cost estimate based on the earlier agreed-to transaction rules. Therefore, under *Hybritech* and *Richardson*, Applicants submit that claims 15 and 20 are allowable, and respectfully request that the Patent Office withdraw the § 102(e) rejection of claims 15 and 20.

AMENDMENT UNDER 37 C.F.R. § 1.116
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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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